

CHAPTER 8.0

FUNDING

Hyundai and the City will provide funding for this EA/HCP to ensure full implementation of all minimization, mitigation, and compensation measures (including monitoring of compensation lands) specified in this EA/HCP associated with the issuance of the proposed Section 10(a)(1)(B) incidental take permit. The City will provide funding for measures associated with the 2-mile extension of the water line.

As discussed previously, 4,368.5 acres of desert tortoise habitat on the proposed project site will be impacted by the proposed project. Desert tortoise impacts on 1,140 acres of the previously were mitigated as part of the prior land exchange between Catellus and BLM, pursuant to the Western Mojave Land Tenure Adjustment Project. Hyundai and the City therefore will acquire a total of 3,228.5 acres (3,208.5 acres for the Hyundai Facility and 20 acres for the City's proposed water line extension) to compensate for desert tortoise impacts.

Hyundai and the City shall provide adequate funding for the purchase, enhancement and long-term management of 3,228.5 acres of compensation lands, as described below and in the attached *Draft Implementing Agreement* (Appendix G), *Draft Proposed Land Acquisition Implementation Plan* (Appendix H), and *Draft Management Agreement* (Appendix I).

8.1 ACQUISITION OF COMPENSATION LANDS

Hyundai and the City will acquire the required compensation lands adjacent to the Desert Tortoise Research and Natural Area, as specified by the resource agencies. Fee title to the compensation lands will be transferred to CDFG or to a third party approved by Hyundai, the City, USFWS and CDFG. If fee title to the compensation lands is held by an approved third party, a conservation easement over the compensation lands will be recorded in favor of CDFG and in a form approved by CDFG.

Prior to the initiation of habitat disturbing activities at the proposed project site, Hyundai and the City shall provide financial assurance to the USFWS and CDFG to secure the performance of their respective obligations under the EA/HCP not later than 12 months after permit issuance. The financial assurance shall consist of establishing a trust account, furnishing an irrevocable letter of credit, or providing such other form of obligation as may be approved by USFWS and CDFG, in the amount of \$4,584,470. This figure was calculated as follows: \$2,808,795 for acquisition of 3,228.5 acres, at an average of \$870/acre; \$ 500,417.50 for enhancement of 3,228.5 acres at a cost of \$155/acre; and \$1,275,257.50 to provide the capital for an endowment fund to manage the compensation lands in perpetuity, at a cost of \$395/acre. These figures were calculated in consultation with the DTPC and are based on a Habitat Planning in Perpetuity Property Analysis Record (PAR Analysis) prepared February 25, 2003 for a pipeline project located south of the proposed project site. See Appendix F, *Desert Tortoise Preserve Committee Property Analysis Record*. Because the pipeline project acquired compensation lands in the same area from which Hyundai and the City are intending to acquire compensation lands, it was determined that the pipeline PAR Analysis provide an adequate basis for estimating the acquisition, enhancement and endowment costs for the proposed project. DTPC also is preparing a PAR Analysis for the Hyundai project and it is anticipated that those numbers will be the same as or less than the pipeline project

PAR Analysis numbers due to economies of scale associated with the larger amount of acreage to be acquired by Hyundai and the City as compensation for the proposed project. The final acquisition, enhancement and long-term endowment amounts will be based on the PAR Analysis prepared for the Hyundai project and will be agreed upon by Hyundai, the City, the Service, CDFG and DTPC.

Prior to the initiation of any habitat disturbing activities, Hyundai and the City shall provide funding assurance for the acquisition, enhancement and long-term management of the compensation lands by either providing a letter of credit or establishing an escrow account, in a form acceptable to USFWS and CDFG. A *Land Acquisition Implementation Plan* is included as Appendix H to this EA/HCP. If an escrow account is established, USFWS and CDFG shall have access to the account. The proposed compensation lands will be purchased by Hyundai and the City, or by a third party approved by Hyundai, the City, USFWS and CDFG. The proposed compensation lands will be enhanced and managed by CDFG or by a third party approved by Hyundai, the City, USFWS and CDFG.

The security funding shall be relinquished to Hyundai and the City upon performance of their respective habitat compensation obligations. If the security is provided by the funding of an escrow account, the joint escrow instructions of the USFWS, CDFG, Hyundai and the City shall provide for the use of the escrow funds for the performance of the habitat compensation obligations of Hyundai and the City, respectively.

8.2 INCIDENTAL TAKING MINIMIZATION AND MITIGATION

The measures described in this EA/HCP for avoiding or otherwise minimizing incidental take will be implemented through the performance of the contracts entered into by Hyundai and the City for the construction, operation, and maintenance of the proposed project (as previously described in Section 2.0, Project Description). Copies of the contracts between Hyundai and the City shall be provided to the USFWS and CDFG upon project permit approval and agreement on final permitting measures. The costs of such implementation will be embedded in the contract rates charged to Hyundai and the City for the overall services provided under the respective contracts. Prior to the initiation of the construction of the proposed project, and thereafter on an annual basis, Hyundai and the City will provide to the USFWS and CDFG a written, certified statement that Hyundai and the City have budgeted for all such implementation costs for the annual period covered by the statement.

8.3 CHANGED CIRCUMSTANCES

As discussed in Chapter 9, because all desert tortoises will be removed from the project site, it is highly unlikely that any additional impacts to desert tortoise could occur on the project site due to Changed Circumstances. Accordingly, it is not necessary to provide any funding assurances for Changed Circumstances on the site. Funding for Changed Circumstances that could occur on the compensation lands is included in the Management Agreement enhancement and endowment amounts.